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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/692,641	10/19/2000	Christopher M. Pohrer	16764-5722	8264

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EXAMINER

ARYANPOUR, MITRA

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 12/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/692,641

Applicant(s)

POHRER, CHRISTOPHER M.

Examiner

Mitra Aryanpour

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 19 and 20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: 3/4" is not equivalent to 2 millimeters but 2 centimeters (see pages 1 and 2 of the specification).

Appropriate correction is required to the above objections.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6, 8-10, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koole (5,308,085) in view of Burns (4,153,247).

Koole shows a game system that includes two uprights formed of two telescoping sections (2 and 3), the uprights are secured to a support surface (1, see figure 1) such as the ground in a manner so that the net standards extend up from the support surface in a generally upright position, each of the standards has an upper and lower post section, and the upper section slidably engages the lower post for telescoping movement; a net (see column 3, lines 14-16) and a cable assembly (9), operatively connecting the net and cable (9) to the upper post sections (3) of the first and second net standards in a manner so that the net is between the first and second net standards and extends downward from the net-supporting cable; a tension adjusting mechanism (6) being attached to the upper post section (3) of the first net standard and being

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adapted to tension the net-supporting cable (9) in a taut configuration between the first and second net standards (see figures 3 and 4; column 3, lines 14-30); the tensioning mechanism (6) comprising a winch mechanism (see column 3, lines 18-22; wherein a cranked handle can be inserted in mechanism 6, which in turn rotates a worm that is in engagement with the part of threaded spindle 7 which finds itself interior to mechanism 6; the worm gear in combination with the cranked handle is considered to be a winch, since the definition for a winch is *[A stationary motor-driven or hand-powered hoisting machine having a drum around which is wound a rope or chain attached to the load being lifted. Or: The crank used to give motion to a grindstone or similar device]*; a drive mechanism (combination of handle 4 not shown and untying knob 5) being adapted to move the corresponding upper post section (3) between its raised and lowered positions (see column 3, lines 8-13).

Koole as disclosed above does not indicate the specifics of the net. Nets having upper and lower sleeves are old and conventional. This feature is also demonstrated by Burns (see figures 1 and 6). Burns shows the upper cable 16 and the lower cable 18 extend through the cable-receiving sleeve of the net (10). It would have been obvious in view of burns to have used a net with upper and lower sleeves for the device of Koole in order to provide an alternative means of securing the cable to the net. Regarding moving the upper post sections of the first and second net standards between their raised and lowered positions without reducing the tension of the cable below the net-support tension is an inherent and obvious feature or step necessary in the use of the Koole net post.

Koole as modified above meets the structural limitations of the claimed invention, therefore it meets the limitations of the method step, since in order to use Koole's assembly one

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would inherently have to secure the post to the ground, provide a net and cable assembly, tension the net using the cable assembly with respect to the post, raise or lower the assembly in order to derive at the desired height. Therefore, Koole as modified above meets the limitations of the method claims.

Regarding the claimed dimensions in claims 8, 9, 19 and 20 such as the first and second net standards being spaced apart by at least 32 feet and lowering the upper post sections of the first and second standards to change the height of the mid-point of the net's upper edge margin from about 7'-11 5/8" to about 7' 4 1/8" . As it has been pointed out in the disclosure of the present application, these are standard dimensions used when playing a regulation game of volleyball, there is nothing new or unobvious about the above limitations.

Regarding claim 10, see comments for claims 1, 2, 6.

3. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koole (5,308,085) in view of Burns (4,153,247), and further in view of Senoh (4,122,451).

Koole as disclosed above shows the drive mechanism (combination of handle 4 and untying knob 5) comprises a rod 47 with a helical compression spring around it (see column 4, lines 56-68), but does not disclose the drive mechanism to be a screw-type drive mechanism wherein the screw-type drive mechanism comprises a manual mechanism such as a crank and a gear train. Screw-type drive mechanisms are old and conventional. This is also shown by Senoh (see figure 2). Therefore it would have been obvious in view of Senoh to have used a screw-type drive mechanism for the drive mechanism of Koole, since it has been held that broadly providing

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a mechanical or automatic means to replace manual activity, which has accomplished the same result, involves only routine skill in the art. *In re Venner*, 120 USPQ 192.

Response to Arguments

1. Applicant's arguments filed 10/10/2002 have been fully considered but they are not persuasive. Regarding applicant's comments that he is unaware of any statute or rule require the inclusion of metric equivalents. Applicant's attention is brought to MPEP 608.01 Specification – Use of Metric System of Measurement in Patent Applications (600-58). Applicant is not consistent in the specification and claims when indicating the unit of measurement. Some dimensions are in inches and/or feet and others are in millimeters, centimeters, and/or meters, and there are some, which have both, but the conversion is incorrect.

Regarding applicant's remarks that the rejection of claims 1-10 appears to rely solely on Koole and Burns and no mention of Senoh and Gordon patents. Since claims 13-18 (now canceled) were directed towards an apparatus for a height-adjusting net and standard system for use in ball games such as volleyball, and claims 1-10 (pending) are directed towards a method of using the apparatus of claims 13-18, it was not necessary to repeat the rejection pertaining to the apparatus when addressing the method claims. However, now that the apparatus claims (13-18) have been canceled, and in order to avoid any ambiguity that may have arisen, the rejection has been incorporated in the method claims. The features that are relied upon "e.g. maintaining the tension of the cable when raising or lowering the standards" are inherent and obvious features or steps necessary in the use of the Koole net post. Therefore, Koole as modified above meets the limitations of the method claims.

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Conclusion


1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Aryanpour whose telephone number is 703 308 3550. The examiner can normally be reached on Monday - Friday 9:00 to 5:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Sewell can be reached on 703 308 2126. The fax phone numbers for the organization where this application or proceeding is assigned are 703 308 7768 for regular communications and 703 305 3579 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1148.

MA

11 December 2002


Paul N. Sewell
Supervisory Patent Examiner
Art Unit 3711